

2019-1935, 2019-1936

**United States Court of Appeals
for the Federal Circuit**

B/E AEROSPACE, INC.,

Appellant

v.

C&D ZODIAC, INC.,

Appellee

Appeals from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in Nos. IPR2017-01275 and IPR2017-01276

APPELLANT'S MOTION TO RESCHEDULE ARGUMENT

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Attorneys for Patent Owner-Appellant B/E Aerospace, Inc.

February 27, 2020

Pursuant to Federal Rule of Appellate Procedure 34(b), Appellant B/E Aerospace, Inc. (“B/E”) respectfully requests rescheduling of the oral argument in the above-captioned matter.

On Friday, February 21, 2020, the Court issued a Notice of Oral Argument (Dkt. 51) scheduling oral argument in this case for April 9, 2020.

Prior to the Court’s issuance of its Notice of Oral Argument, but before counsel for B/E entered an updated Response to the Court’s Notice to Advise of Scheduling Conflicts (Dkt. 40), an arbitrator rescheduled trial in *Alector, Inc. et al. v. Abeliovich*, JAMS Ref. No. 110010692, to begin on April 13, 2020—a trial that requires the participation of B/E’s principal attorney from April 6, 2020. Declaration of Morgan Chu (“Chu Decl.”) ¶ 2.

At the time of the filing of B/E’s Response To Notice To Advise Of Scheduling Conflicts (Dkt. 45), trial in *Alector* was scheduled for March—a potential conflict not reflected in B/E’s earlier-filed Response (Dkt. 45) because March fell outside of the range of dates requested by this Court in its Notice to Advise (Dkt. 40). *Id.* ¶ 3.

B/E currently has no scheduling conflicts other than the April conflicts identified in this motion, May 4-7, and August 3-7. *Id.* ¶ 4.

B/E informed counsel for Appellee C&D Zodiac, Inc. (“Zodiac”) of its intent to seek the requested rescheduling. Zodiac informed B/E that it objects to

B/E's request, but that it will not file a response. *Id.* ¶ 5.

For the foregoing reasons, B/E respectfully requests that the Court reschedule oral argument in the above-captioned matter.

Dated: February 27, 2020

Respectfully submitted,

/s/ Morgan Chu

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Attorneys for Appellant

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

B/E Aerospace, Inc.

v. C&D Zodiac, Inc.

Case No. 2019-1935, 2019-1936

CERTIFICATE OF INTEREST

Counsel for the:

(petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

certifies the following (use "None" if applicable; use extra sheets if necessary):

1. Full Name of Party Represented by me	2. Name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:	3. Parent corporations and publicly held companies that own 10% or more of stock in the party
B/E Aerospace, Inc.	None	Rockwell Collins, Inc.
		(parent of B/E Aerospace)
		United Technologies Corp.
		(parent of Rockwell Collins)
		United Technologies is
		publicly traded (NYSE:UTX)

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (**and who have not or will not enter an appearance in this case**) are:

Andrei Iancu (no longer with firm)

Benjamin Haber (no longer with firm)

Michael R. Fleming

Dennis J. Courtney

Irell & Manella LLP

1800 Avenue of the Stars, Ste. 900

Los Angeles, CA 90067

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary).

Potentially affected proceedings in the PTAB: IPR2017-01275 and IPR2017-01276.

Potentially related district court proceedings: B/E Aerospace v. C&D Zodiac, Inc. n/k/a Safran Cabin Inc. et al, No. 2:19-cv-01480-MWF-AFM (C.D. Cal.)

2/27/2020

Date

/s/ Morgan Chu

Signature of counsel

Morgan Chu

Printed name of counsel

Please Note: All questions must be answered

cc: Counsel of record

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION,
TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS**

1. This brief complies with the type-volume limitation of Federal Rule of Federal Circuit Rule 32(a) or Federal Rule of Federal Circuit Rule 28.1.

This brief contains [state the number of] 259 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), or

This brief uses a monospaced typeface and contains [state the number of] _____ lines of text, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

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/s/ Morgan Chu

(Signature of Attorney)

Morgan Chu

(Name of Attorney)

Representing Appellant B/E Aerospace, Inc.

(State whether representing appellant, appellee, etc.)

2/27/2020

(Date)

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**United States Court of Appeals
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**DECLARATION OF MORGAN CHU IN SUPPORT OF
APPELLANT'S MOTION TO RESCHEDULE ARGUMENT**

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Attorneys for Patent Owner-Appellant B/E Aerospace, Inc.

February 27, 2020

I, Morgan Chu, declare as follows:

1. I am a partner in the law firm of Irell & Manella LLP, counsel for Appellant B/E Aerospace, Inc. (“B/E”) in the above-captioned. I am the attorney principally responsible for oral argument in B/E’s appeal. I provide this declaration upon personal knowledge and, if called upon as a witness, would testify competently as to the matters recited herein. I submit this declaration in support of B/E’s motion to reschedule oral argument.

2. Prior to the Court’s issuance of its Notice of Oral Argument on February 21, 2020 (Dkt. 51), but before counsel for B/E entered an updated Response to the Court’s Notice to Advise of Scheduling Conflicts (Dkt. 40), an arbitrator rescheduled trial in *Alector, Inc. et al. v. Abeliovich*, JAMS Ref. No. 110010692, to begin on April 13, 2020—a trial that creates a new conflict with the Court’s scheduled date of oral argument in this case (April 9, 2020) because it requires my participation from April 6, 2020.

3. At the time of the filing of B/E’s Response To Notice To Advise Of Scheduling Conflicts (Dkt. 45), trial in *Alector* was scheduled for March—a potential conflict not reflected in B/E’s earlier-filed Response (Dkt. 45) because March fell outside of the range of dates requested by this Court in its Notice to Advise (Dkt. 40).

4. B/E currently has no scheduling conflicts other than the April

conflicts identified in this motion, May 4-7, and August 3-7.

5. B/E informed counsel for Appellee C&D Zodiac, Inc. (“Zodiac”) of its intent to seek the requested rescheduling. Zodiac informed B/E that it objects to B/E’s request, but that it will not file a response.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: February 27, 2020

Respectfully submitted,

/s/ Morgan Chu

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Attorneys for Appellant

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on February 27, 2020 by:

U.S. Mail
 Fax
 Hand
 Electronic Means (by E-mail or CM/ECF)

Morgan Chu

/s/ Morgan Chu

Name of Counsel

Signature of Counsel

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